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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
GARY JAMES ROLLER,)
)
Defendant.)
)
)
)
)
)

No. CR 08-00361(A) RMW

**STIPULATION AND []
ORDER CONTINUING STATUS
CONFERENCE FROM NOVEMBER 23,
2009 TO DECEMBER 7, 2009, AND
EXCLUDING TIME FROM
NOVEMBER 23, 2009 TO DECEMBER
7, 2009, FROM CALCULATIONS
UNDER THE SPEEDY TRIAL ACT (18
U.S.C. § 3161)**

The parties hereby request that the Court enter this order continuing the status conference from November 23, 2009 to December 7, 2009, and excluding time from November 23, 2009 to December 7, 2009. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from November 23, 2009 to December 7, 2009 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, additional motions are appropriate. The government has produced discovery in this case and the defense counsel and defendant require additional time to

1 review and analyze this discovery.

2 In addition, on August 24, 2009, the Court heard argument concerning defendant's
3 motion to suppress the search warrant in this case. On October 5, 2009, the Court heard
4 argument on defendant's supplemental motion to dismiss the search warrant, his motion for a bill
5 of particulars and his motion to dismiss one count of the superseding indictment as
6 multiplicitous. The Court tentatively denied defendant's motion for a bill of particulars and his
7 motion to dismiss one count of the superseding indictment as multiplicitous. The Court took
8 defendant's motion to suppress and his supplemental motion to suppress under consideration.
9 The Court's decision is still pending.

10 Moreover, government counsel will be unavailable on November 23, 2009 because of the
11 Thanksgiving holiday.

12 Therefore, for effective preparation and continuity of counsel and consideration of
13 defendants' motions by the Court, the parties agree that the status conference currently scheduled
14 for November 23, 2009 should be continued to December 7, 2009 at 9 a.m.

15 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial
16 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for
17 effective preparation of the defense; believes the exclusion is in the defendant's best interests;
18 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for
19 the period November 23, 2009 to December 7, 2009.

20 Given these circumstances, the parties believe, and request that the Court find, that the
21 ends of justice are served by excluding from calculations the period from November 23, 2009 to
22 December 7, 2009 outweigh the best interests of the public and the defendant in a speedy trial
23 under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

24 IT IS SO STIPULATED.

25 DATED: November 9, 2009

26 /s/ Richard Pointer
RICHARD POINTER

DATED: November 9, 2009

/s/ Hanley Chew
HANLEY CHEW
Assistant United States Attorney

[] ORDER

Having considered the stipulation of the parties, the Court finds that: (1) the defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, November 23, 2009 to December 7, 2009, based on the need for the defense counsel to investigate further the facts of the present case, review the discovery that the government has already provided and evaluate further possible defenses and motions available to the defendant; (2) the exclusion of time is necessary for effective preparation of the defense and continuity of counsel and is in the defendant's best interests; (3) defendant's motion to suppress and his supplemental motion to suppress the search warrant are still pending and under consideration by the Court and (4) the ends of justice are served by excluding from Speedy Trial calculations the period from November 23, 2009 to December 7, 2009.

Accordingly, the Court further orders that (1) the status conference currently scheduled for November 23, 2009 is vacated and that the next appearance date before this Court is scheduled for December 7, 2009 at 9:00 a.m.; and (2) the time from November 23, 2009 through December 7, 2009 is excluded from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

IT IS SO ORDERED.

DATED: 12/23/09


THE HONORABLE RONALD M. WHYTE
United States District Court Judge